IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

JOHNNY FUENTES	§	
v.	§	CIVIL ACTION NO. 6:16cv778
JOHN RUPERT, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Plaintiff Johnny Fuentes, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

All of the claims which Fuentes raises in the present case are also raised in *Fuentes v. Rupert, et al.*, cause no. 6:16cv237 (E.D.Tex.). This case is still pending albeit administratively closed. On January 4, 2017, the Magistrate Judge issued a Report recommending that the present case, no. 6:16cv778, be dismissed as frivolous or abusive because it simply repeated pending litigation. Fuentes received a copy of this Report on January 20, 2017, but filed no objections thereto; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the record in this cause and the Report of the Magistrate Judge.

Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See*

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is

"clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 12) is **ADOPTED** as the

opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for

purposes of proceeding in forma pauperis as frivolous or abusive. It is further

ORDERED that any and all motions which may be pending in this action are hereby

DENIED.

So Ordered and Signed

Mar 3, 2017

Ron Clark, United States District Judge

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